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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GURPAL SINGH,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-75480

Agency No. A76-728-497

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 10, 2008^{**}
San Francisco, California

Before: REINHARDT, NOONAN, and FISHER, Circuit Judges.

Gurpal Singh, a native and citizen of India, petitions for review of an order of the Board of Immigration Appeals (the “Board”) affirming an Immigration Judge’s (“IJ”) denial of his applications for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”).

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The parties are familiar with the facts. We proceed to the law. Where the Board affirms and adopts the IJ's decision, this court reviews that decision as the final agency determination. *Knezevic v. Ashcroft*, 367 F.3d 1206, 1210 (9th Cir. 2004). An IJ's decision regarding an applicant's eligibility for asylum is reviewed to determine whether it is supported by substantial evidence. *Ali v. Ashcroft*, 394 F.3d 780, 784 (9th Cir. 2005).

The IJ's adverse credibility finding is not supported by substantial evidence. Even assuming that Singh's testimony regarding when his father picked up the passport is inconsistent with his asylum application, the inconsistency is minor and does not go to the heart of his claim. *See Bandari v. INS*, 227 F.3d 1160, 1166 (9th Cir. 2000). The remaining three reasons provided by the IJ are mere conjecture and speculation which cannot be used to support a finding of incredibility. *See Ge v. Ashcroft*, 367 F.3d 1121, 1125 (9th Cir. 2004). Accordingly, we grant the petition and remand the case to allow the agency to determine whether, accepting Singh's testimony as credible, he is eligible for asylum, withholding of removal, or CAT relief. *See INS v. Ventura*, 537 U.S. 12, 17-18 (2002) (per curiam).

For the reasons stated, the petition is GRANTED and the case is REMANDED.